

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

INFOGROUP, INC., infoUSA, INC., and
infoUSA MARKETING, INC., Delaware
corporations,

Plaintiffs,

v.

DATABASEUSA.COM LLC d/b/a
Database101.com, d/b/a InfoFree.com, and
d/b/a AtoZ Databases, a Nevada limited-liability
company, VINOD GUPTA, BLAKE VAN
GILDER, JASON DAILEY, MARK PULJAN,
JON McCORMICK, and JOHN DOES 1-20,

Defendants.

Case No. 8:14-cv-49

**FIRST SUPPLEMENTAL COMPLAINT
REGARDING BREACH OF CONTRACT**

JURY TRIAL REQUESTED

COME NOW Plaintiffs Infogroup, Inc., infoUSA, Inc., and infoUSA Marketing, Inc., (collectively, “Infogroup” or “Plaintiffs”) and, for their First Supplemental Complaint against DatabaseUSA.com LLC d/b/a Database101.com, d/b/a InfoFree.com, and d/b/a AtoZ Databases (collectively, “DB101”), Vinod Gupta (“Gupta”), Blake Van Gilder (“Van Gilder”), Jason Dailey (“Dailey”), Mark Puljan (“Puljan”), Jon McCormick (“McCormick”), and John Does 1-20 (collectively, “Defendants”), state the following:

PARTIES

1. Plaintiffs are Delaware corporations with their principal places of business in Papillion, Nebraska.

2. DatabaseUSA.com LLC is a Nevada limited liability company with its principal place of business at 9017 Greensboro Lane, Las Vegas, NV 89134. On information and belief, DatabaseUSA.com LLC is successor-in-interest to Databasellc.

3. Vinod Gupta is a resident of the State of Nebraska, a former officer and shareholder of Infogroup and current officer of DB101.

4. Blake Van Gilder is a resident of the State of Nebraska, a former employee of Infogroup, and, on information and belief, a current employee of DB101.

5. Jason Dailey is a resident of the State of Nebraska, a former employee of Infogroup, and, on information and belief, a current employee of DB101.

6. Mark Puljan is a resident of the State of Illinois, a former employee of Infogroup, and, on information and belief, a current employee of DB101.

7. Jon McCormick is a resident of the State of Nebraska, a former employee of Infogroup, and, on information and belief, a current employee of DB101.

8. John Does 1-20 are yet to be identified current or former employees of DB101, on information and belief all residents of the State of Nebraska, who were formerly employed by Infogroup.

JURISDICTION AND VENUE

9. Jurisdiction in this Court and in the subject matter of this action arises under the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1367.

10. This Court may exercise personal jurisdiction over Defendants based upon their presence within this judicial district and, upon information and belief, their transaction of business and other activities within the District of Nebraska.

11. Venue in this Court is proper under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims set forth in this Complaint occurred within this judicial district and Defendants reside in this judicial district.

COUNT I

**Breach of Contract – Violation of Non-Solicitation Agreement
(against Defendant DB101)**

12. Infogroup repeats and realleges each of the allegations in the preceding paragraphs previously pled in this Complaint as if each were set forth in full herein.

13. In March 2012, Infogroup and Databaselc executed a valid, enforceable settlement agreement (“Agreement”) to resolve claims raised in litigation in the District Court of Douglas County, Nebraska, Case No. CI-11-5969.

14. Section 3 of the Agreement contained a mutual non-solicitation agreement, under which the parties agreed that “neither shall attempt to hire the other’s employees while those individuals are still employed by the other.”

15. The Agreement remains in force by its terms through March 2016.

16. In reliance on the mutual promises contained in the Agreement, including the non-solicitation clause, Infogroup agreed to dismiss its claims against Databaselc.

17. On information and belief, DatabaseUSA.com LLC is the successor-in-interest to Databaselc.

18. On or about March 2015, DB101 began sending email and LinkedIn solicitations to current Infogroup employees. Some of these solicitations were sent on DB101’s behalf from an individual whose email address and LinkedIn profile shows that she works for Everest Group LLC, a company whose website (www.everestcpi.com) lists Defendant Gupta as its “Managing General Partner.” Others came from an individual identifying herself as “Talent Acquisition Manager” at DatabaseUSA. Examples of these solicitations are attached hereto as Exhibits 1-4.

19. The email and LinkedIn solicitations by DatabaseUSA of current Infogroup employees constitute violations of the terms of Section 3 of the parties’ March 2012 Agreement.

20. On March 25, 2015, Infogroup's outside general counsel, Alan Sege, sent a letter to Defendants' counsel notifying him of the breach and demanding that DB101 confirm it would stop its solicitations of Infogroup employees. A true and correct copy of the Sege letter is attached hereto as Exhibit 5.

21. On March 31, 2015, Infogroup's chief financial officer, John Hofmann, sent a letter to Rachel Block, a professional associated with Everest Group LLC who sent the employee solicitations on behalf of DatabaseUSA, notifying her of the ongoing breach of the settlement agreement and reiterating the demand that DatabaseUSA immediately stop its solicitations of Infogroup employees. A true and correct copy of the Hofmann letter is attached hereto as Exhibit 6.

22. On April 2, 2015, Defendant Gupta, sent an email to Hofmann in which he not only failed to acknowledge or address the serious, ongoing breaches of the parties' settlement agreement, but also threatened Hoffmann with "serious action . . . including criminal penalties" as a result of Hofmann's efforts to get DatabaseUSA to stop violating the settlement agreement. A true and correct copy of the Gupta email is attached hereto as Exhibit 7.

23. DB101's ongoing solicitation of Infogroup employees, including by email and LinkedIn, constitute a breach of the Agreement between the parties.

24. Infogroup has suffered harm as a direct and proximate cause of DB101's breach of the Agreement, including, but not limited to, the dismissal of its state-court claims in exchange for the promises made by DB101 or its predecessor-in-interest in the Agreement.

25. Infogroup has no adequate remedy at law for DB101's ongoing breach of the Agreement's non-solicitation clause.

WHEREFORE, Plaintiffs pray for relief as follows:

1. Judgment in favor of Infogroup on Count I above.
2. An injunction prohibiting Defendants from continuing its practice of soliciting current Infogroup employees for possible employment at DB101 in breach of the Agreement between the parties.
3. Such other and further relief as the Court deems just and proper.

JURY DEMAND AND REQUEST FOR PLACE OF TRIAL

Pursuant to Fed. R. Civ. P. 38 and NECivR 40.1(b), Plaintiffs hereby demand a trial by jury and requests that trial of this case take place in Omaha, Nebraska.

Dated this 5th day of May, 2015.

**INFOGROUP, INC., infoUSA, Inc., and
infoUSA Marketing, Inc., PLAINTIFFS**

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 5th day of May, 2015, the foregoing document entitled FIRST SUPPLEMENTAL COMPLAINT REGARDING BREACH OF CONTRACT was filed electronically via the Court's CM/ECF system, which provided electronic notification of such filing to:

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s/ Douglas W. Peters

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